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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,264	09/18/2003	Kazuhiro Takeda	SIC-03-034	2263

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EXAMINER	
LE, HUNG CHARLIE	
ART UNIT	**PAPER NUMBER**
3663	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/605,264	TAKEDA, KAZUHIRO	
	Examiner	Art Unit	
	Hung C. Le	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 November 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 38* is/are pending in the application.

4a) Of the above claim(s) *5, 16 - 33* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 4, 6 - 15, 34 - 38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/1/04, 9/15/04, 5/17/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/06/2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 13 & 34 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1:

Claim 1 recites the limitation "the internet" in line 3. There is insufficient antecedent

basis for this limitation in the claim.

Claim 1 recites the limitation "the managed information" in line 5. There is insufficient antecedent basis for this limitation in the claim.

The term "... to predetermined criteria..." is vague/unclear. It is not known what all is meant and encompasses by the term "predetermined" as to what standard is used. Therefore, it makes the claim indefinite.

With respect to claim 13:

The term "... in proximity to..." is a relative term. It is not known what all is meant and encompasses by the term "proximity" as to what standard is used. Therefore, it makes the claim indefinite.

With respect to claim 34:

Claim 34 recites the limitation "the plurality of bicycle users" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1 – 4, 6 – 15, 34 – 38 (Claims 5, 16 – 33 were cancelled by applicant) are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickman et al. (US 2005/0233861) in view of Shea (6,171,218).

Regarding claim 1, Hickman discloses (Fig. 10) a bicycle user information apparatus comprising:

an information receiver (Internet access apparatus 196, the Internet 216, server system 76' and remote system 66') that receives information corresponding to the bicycle user (Fig. 13, bicycle user 274A) through the Internet (252) (Col. 14, Lines 14 – 47; Col. 16, lines 16+); and

an administration control unit (Fig. 13, Internet 252, fixed local server 266, mobile local sever 272, remote server 258 and trainer machines 262A-262N) that manages the information received through the information receiver and enables external access to the managed information in response to predetermine criteria (a trainer can externally access to the bicycle user information through out-of-band communication such as cellular phone in response to predetermined criteria such as a high-speed data connection criteria (Figs. 13 and 33; and Col. 17, lines 19 – Col 18, lines 14 and Col. 28, lines 36+);

wherein the administration control unit (Fig. 13, Internet 252, fixed local server

266, mobile local sever 272, remote server 258 and trainer machines 262A-262N) comprises

a user registration unit (Fig. 14, user ID 294) that registers identifying information corresponding to the bicycle user (Col. 19, Lines 7 - 21) to establish the bicycle user as a registered bicycle user;

an information delivery unit (252) that delivers information to a requesting user; and

a rank processing unit (Col. 26, lines 65+) that receives cycling performance data from the registered bicycle user and calculates ranking information of the registered bicycle user from performance data from the registered bicycle user and from cycling performance data from at least one additional registered bicycle user (Col 27, lines 45+);

wherein the information delivery unit is structured to provide the ranking information of the registered bicycle user relative to the at least one additional registered bicycle user to the registered bicycle user (Fig. 13).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Hickman fails to explicitly disclose an information receiver in his bicycle user information apparatus (i.e., Internet servers systems).

However, Shea discloses (Fig. 3) a bicycle user information apparatus comprises a central office (102) (a server) and a plurality of bicycle devices (104). The central office or server (102) includes a receiver (114). The central office or server (102) also communicates to the bicycle devices (104) through a communication link (106) that may a telephone network, a satellite system, or an optical fiber (Column 4, lines 14-16 and lines 27-34).

Therefore, it would have been obvious to a person of ordinary skill in the art to use the receiver (114) and the transmitter (112) of Shea into the Internet network/server systems of Hickman in order for universal usages of the system.

Regarding claim 2, Hickman further discloses wherein the server system receives information from a cycle computer (Col 17, lines 19+, "a display on a bicycle computer").

Regarding claim 3, Hickman discloses (Fig. 11) wherein the server system receives information from a personal computer (Col. 15, lines 13+).

Regarding claim 4, Hickman discloses wherein the managed information comprises at least one of geographical information and cycling condition information (Col. 27, lines 13+).

Regarding claim 6, Hickman discloses the server system processes information corresponding to a current location of a bicycle user (Col. 17, lines 19+; GPS sensor and current location).

Regarding claim 7, since Hickman teaches the Internet network/server system, it would have been obvious that the users or trainers can communicate through email system.

Regarding claims 8 and 9, Hickman discloses (Fig. 33) the trainer provides a training plan (612 and 616) based on rider history data (602-606) (Col. 28, lines 36+).

Regarding claim 10, since Hickman teaches the Internet network/server system, it would have been obvious that the users or trainers can delivery information back and forth (Col. 3, lines 4 –26, Col. 13, lines 49+ to Col. 14, lines 13).

Regarding claim 11, note the rejection as set forth above with respect to claim 10. Hickman further discloses the server systems processes information corresponding to a current location of a bicycle user (Col. 17, lines 19+; GPS sensor and current location).

Regarding claim 12, since Hickman teaches the Internet network/server systems, it would have been obvious that the users or trainers can delivery information back

and forth (Col. 3, lines 4 –26, Col. 13, lines 49+ to Col. 14, lines 13).

Regarding claim 13, Hickman further discloses the server systems processes information corresponding to a current location of a bicycle user (Sections 114; GPS sensor and current location). Furthermore, it is well known in the art that the GPS can detect and provide a current location of a vehicle.

Regarding claims 14 and 15, Hickman discloses wherein the managed information comprises at least one of geographical information through the Internet (Col. 27, lines 13+ and Col. 27, lines 45+).

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hickman and Shea as applied to claim 1 above, and further in view of Rice (US 2004/0210353).

Regarding claim 34, as best understood, Hickman fails to disclose the "historical" ranking information for the bike users.

However, Rice discloses (Figs. 6 and 7) the "historical" ranking information of drivers (the recording and storing of the driver ranking value) (Section 93).

Therefore, it would have been obvious to the person of ordinary skill in the art to

use the driver storing ranking system of Rice into the cycling competition of Hickman to provide individual ranking value for different bikers.

Furthermore, Hickman also teaches "This also permits amateurs (presumably on fixed exercise devices) to compete with professionals on mobile exercise devices" (Col. 27, lines 45+).

Therefore, it would have been obvious to the person of ordinary skill in the art to recognize that the terms "amateurs" and "professionals" are two different ranking levels in a competitive sport, such as cycling, golf, boxing, football, etc. Therefore, it is well known in the art that different sports have different ranking system for the competitors, such as the computer ranking system for NCAA football, or the ranking system for ranking the cyclists participated in the "Tour de France", or NASCAR, etc.

Regarding claim 35, Hickman discloses wherein the cycle performance data comprises cycling distance (See Fig. 8b)

Regarding claim 36, Hickman discloses wherein the cycling performance data comprises cycle time (See Figs. 8a & 8b)

Regarding claims 37, Hickman discloses wherein a cycle computer (24; Fig. 1) that

receives sensor signals from sensors (54, 60) installed on a bicycle, wherein the information delivery unit (252) provides the ranking information to the registered user through the cycle computer (Fig. 13).

Regarding claim 38, Hickman discloses wherein the cycle computer (24) is structured to be mounted to a bicycle (12).

6. The statements of intended use or field of use, e.g., "identifying, corresponding, wherein, whereby, etc..." clauses are essentially method limitations or statements or intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

> A claim containing a "recitation with respect to the manner in which a claimed apparatus is Intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim.. Ex parte Masham, 2 USPQ 2nd 1647
>
> Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.
>
> Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked

upon does not serve to limit an apparatus claim.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung C. Le whose telephone number is 571-272-8757. The examiner can normally be reached on M-F: 07:30am - 05:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HCL

01/18/07

JACK KEITH
SUPERVISORY PATENT EXAMINER